

Working Arrangement
on the cooperation between the European Public Prosecutor's Office
and the National Anti-Corruption Bureau of Ukraine

The European Public Prosecutor's Office ('the EPPO') and
the National Anti-Corruption Bureau (' the NABU') of Ukraine,
together hereinafter referred to as "the Parties",

Having regard to Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), hereinafter referred to as "the EPPO Regulation", and in particular the Articles 99 and 104 thereof,

Considering the will of the Parties to establish a close cooperation with a view of protecting by investigative and prosecutorial means the financial interests of the European Union and of Ukraine,

Aiming to facilitate cooperation and exchange of information between them in order to ensure effective investigation and prosecution, in full respect of the Charter of Fundamental Rights of the European Union, and to bring to justice without undue delay all persons who are suspect or accused of committing crimes against the EU budget,

HAVE AGREED AS FOLLOWS:

Chapter I
General provisions

Article 1
Purpose

1. The purpose of this Working Arrangement is to facilitate cooperation, in particular through the exchange of information between the Parties within the limits of their respective legal frameworks and mandates.
2. This Working Arrangement is without prejudice to the judicial cooperation between the EPPO and the competent Ukrainian authorities, including NABU, in accordance with the relevant international

instruments, such as those referred to in the Working Arrangement on the cooperation between the EPPO and the General Prosecutor's Office of Ukraine, done on 18 March 2022.

Article 2

Areas of crime

The cooperation as established in this Working Arrangement shall relate to the relevant areas of crime within the material competence of the EPPO, including specifically criminal offences affecting the financial interests of the European Union.

Article 3

Definitions

For the purposes of this Working Arrangement:

- a. 'European Delegated Prosecutor' means the EPPO post-holders referred to in Articles 8(4), 13 and 17 of the EPPO Regulation;
- b. 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- c. 'information' means personal and non-personal data;
- d. 'processing of personal data' means any operation or set of operations which are performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Chapter II

Operational cooperation

Article 4 General principles

1. The Parties shall, on the basis of their legal frameworks, provide mutual legal assistance to each other and share information available in their respective databases and relevant to their respective mandates.
2. This Working Arrangement does not form the basis for allowing the exchange of personal data. Transmission of any personal data between the Parties is subject to their respective legal frameworks and relevant international agreements.

Article 5 Transmission of information

1. Information may be transmitted either spontaneously or on motivated request. When a Party requests information from the other Party, it shall specify the purpose of and the reasons for the request. When a Party spontaneously transmits information to the other Party, it shall state the purpose for which the information is transmitted.
2. The transmitting Party shall indicate any restriction on use of the information, any access restrictions, as well as any condition of deletion or destruction of such information, before or at the moment of transmission, or where such restriction or condition becomes apparent later, after the transmission.
3. Where information is made available through direct access to a database, such access shall in addition be governed by the specific rules and conditions applicable to the operation of that database, to the extent they do not contradict provisions of this Working Arrangement or the respective legal frameworks, specifically in relation to Article 19 on onward transfers.

Article 6 Relation with judicial cooperation

1. In line with Article 1(2), for the purpose of gathering evidence, the appropriate legal instruments and channels judicial cooperation shall apply. To this end, in accordance with the declarations of Ukraine to the European Convention on mutual assistance in criminal matters and to its Second Additional Protocol, the Parties shall transmit directly to each other requests for mutual legal assistance based on the European Convention on mutual assistance in criminal matters and its Second additional Protocol during pre-trial investigation within NABU's competence.
2. Within the limits of its mandate, the NABU may take part in Joint Investigations Teams established by the EPPO and the competent judicial authorities of Ukraine.

Article 7

Channels of communication

1. When transmitting information to the NABU, the EPPO shall address the International Legal Division of the NABU via NABUInt@nabu.gov.ua.
2. Request for mutual assistance in criminal matters transmitted by the EPPO to NABU shall be addressed to 3, Vasylia Surykova str., Kyiv, 03035.
3. When transmitting information to the EPPO, the NABU shall address the EPPO through the EPPO-IBOAS@epo.europa.eu at the EPPO's Central Office.

Chapter III

Institutional cooperation and implementation of the Working Arrangement

Article 8

Exchange of strategic information and invitations to events

1. The Parties may exchange information of strategic nature, such as trends and challenges, lessons learned and other observations and findings related to their respective activities, which could support their work.
2. The Parties may invite each other to seminars, workshops, trainings, conferences and other similar events that are relevant to their respective areas of competence.

Article 9

Contact points

Without prejudice to Article 6 on the transmission of information, each Party shall designate, via exchange of letters, a contact points within their respective organisation for the implementation of this Working Arrangement.

Article 10

Technical implementation

1. The Parties may agree on appropriate technical and practical measures for the implementation of this Working Arrangement, where so required for the purposes of exchanging information or implementing provisions of the respective legal frameworks. This may take the form of a separate instrument.
2. The establishment, implementation and operation of a secure communication line for the purpose of exchange of information between the Parties shall take the form of a separate instrument.

Article 11

Meetings and other events

- (1) The Parties may organise high-level meetings between the European Chief Prosecutor and the Director of the NABU, as well as technical meetings at both operational and administrative levels.
- (2) The Parties may cooperate in organising training sessions on matters of common interest and they may invite each other to seminars, workshops, conferences and other similar activities that are mutually relevant.

Article 12

Technical Support provided by the EPPO

Upon request, the EPPO may support the NABU in exercising its functions, especially with expertise and sharing best practices in investigating and prosecuting financial crimes and corruption.

Chapter IV

Processing of personal data, data security and liability

Article 13

Exchange of personal data

Any exchange of personal data between the Parties shall be in accordance with the respectively applicable legal frameworks.

Article 14

General Provisions

In respect of personal data exchanged, the Parties shall ensure that:

- a) the personal data are fairly processed;
- b) the personal data provided are adequate, relevant and not excessive in relation to the specific purpose of the request or transfer;
- c) the personal data are retained only so long as necessary for the purpose for which the data were provided or further processed in accordance with this Working Arrangement. Such necessity should be reviewed no later than in accordance with the respective legal frameworks of the Parties; and
- d) no personal data is transmitted without a purpose.

Article 15

Transmission of special categories of personal data

1. Personal data revealing racial or ethnic origin, political opinions or religious or other beliefs, trade union membership, genetic or biometric data for the purpose of identifying a natural person, or concerning health and sexual life or orientation shall be prohibited, unless they are strictly necessary for a purpose set forth in Article 1 of this Working Arrangement.
2. The Parties shall take adequate safeguards, particularly appropriate technical and organisational security measures, to comply with the special sensitivity of the categories of personal data mentioned in paragraph 1 of this Article.

Article 16

Rights of the data subject and Public Access requests

1. In line with the respectively applicable legislation, individuals possess a number of rights in relation to the processing of their personal data exchanged under this Working Arrangement by the Parties. These rights are exercised in accordance with the law applicable to the Party to which the request is submitted.
2. The Party to which the request is submitted shall give the other Party the opportunity to express its opinion, especially prior to granting any access to the data subject following such a request. The parties shall cooperate with each other where needed for the fulfilment or assessment of a given request, and inform each other of the final decision taken in relation to the given/particular request.
3. Requests for public access to documents exchanged under this Working Arrangement shall be subject to the same consultation requirement under paragraph 2 of this Article, including the notification of the final action taken.
4. This Article is without prejudice to any rights an individual may have under the law applicable to the transmitting Party to seek release of information from that Party, or other appropriate relief. Also

in such cases where this concerns information exchanged under this Working Arrangement, the obligations under paragraph 2 shall apply accordingly.

Article 17

Notification obligations

1. If a Party becomes aware either via the request of the data subject, via notification from the transmitting Party or via some other way, that information it has received from or transmitted to the other Party is not or may not be accurate, or should not have been transmitted, it shall take all appropriate measures to safeguard against erroneous reliance on such information, which shall include supplementation, deletion or correction of such information, including informing the other Party, which shall act accordingly.
2. In case of breach a personal data exchanged under this Working Arrangement, the Parties shall inform each other as soon as possible.

Article 18

Data security

The Parties ensure that the necessary technical and organisational measures are utilised to protect personal data received under this Working Arrangement against accidental or unlawful destruction, accidental loss or unauthorised disclosure, alteration, access or any unauthorised form of processing. The Parties particularly ensure that only those authorised to access personal data can have access to such data.

Article 19

Onward transfers

Any onward transmission, including to Union bodies and agencies, Member States, third countries and international organisations, shall receive the prior explicit authorisation by the transmitting Party, in specific or in general terms. Such consent may only be given when allowed under the applicable legal framework of the transmitting Party.

Article 20

Liability for the unauthorised, incorrect or inaccurate processing of data

1. Each Party shall be liable, in accordance with its respective legal framework, for any damage caused to an individual because of unauthorised, incorrect or inaccurate data processing carried out by it.
2. Neither Party may plead in any proceedings brought against it that the other Party had transmitted inaccurate information. If a Party is bound to pay amounts awarded as compensation for damages to an injured party, and the damages are due to a failure of the other Party to comply with its legal obligations to transmit accurate information and data, the latter shall be bound to repay, on request, these amounts. In case no agreement can be reached on the determination and compensation of damages between the Parties, the issue shall be settled by consultations carried out in accordance with Article 22.
3. The Parties shall not require each other to pay for punitive or non-compensatory damages under paragraph 2 of this article.

Chapter V

Final provisions

Article 21

Consultations

The Parties shall consult each other regarding any matters that may lead to different interpretations of this Working Arrangement.

Article 22

Expenses

Unless otherwise stipulated in this Working Arrangement, the Parties shall bear their own expenses that arise in the course of implementation of this Working Arrangement.

Article 23

Amendments

This Working Arrangement may be amended in writing at any time by mutual consent between the Parties.

Article 24

Termination of the Working Arrangement

- (1) This Working Arrangement may be terminated by each Party within three months' written notice.
- (2) In case of termination, the Parties shall reach agreement on the continued use and storage of the information that has already been communicated between them.
- (3) Without prejudice to paragraph 1, the legal effects of this Working Arrangement shall remain in force.

Article 25

Entry into force

This Working Arrangement shall enter into force on the date of its signature.

Done at Luxembourg on 3 July 2023 in two originals in English and Ukrainian languages, all texts being equally authentic.

For the EPPO,



Laura Codruța KÖVESI
European Chief Prosecutor

For the NABU,

Semen KRYVONOS
Director

